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PATENT
Attorney Dock t No. 3063.0396-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

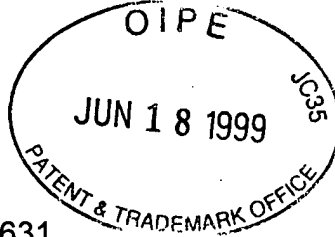
In re Application of:

John E. EBY et al.

Serial No.: 09/287,631

Filed: April 7, 1999

For: SURFACE COVERINGS HAVING
A NATURAL APPEARANCE AND
METHODS TO MAKE A SURFACE
COVERING HAVING A NATURAL
APPEARANCE



Group Art Unit: 1732

Examiner: A. Kuhns

RECEIVED

JUN 24 1999

GROUP 1732

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Petition to Make Application Special under 37 C.F.R. § 1.102(d)

Pursuant to 37 C.F.R. § 1.102(d), Applicants hereby petition to make this application special. Applicants are filing herewith a statement relating to the existence of an infringing method in the U.S., a rigid comparison between the infringing method and at least one of the pending claims of this application, and the prior art. A check in the amount of \$130.00 to cover the fee required under 37 C.F.R. § 1.17(i) is enclosed herewith.

In view of the facts set forth in the attached verified statement and the foregoing remarks, Applicants respectfully request that this petition be granted and that prosecution of this application be handled as special throughout its pendency.

LAW OFFICES

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Serial No.: 09/287,631
Attorney Dock t No.: 3063.0396-02

Please grant any extensions of time required to enter this Petition and charge any additional required fees to deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: 
Thomas H. Martin
Reg. No. 34,383

Date: June 18, 1999

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

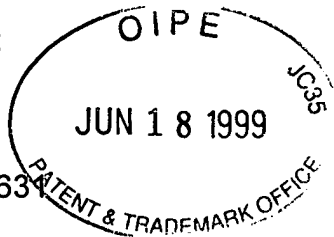
In re Application of:

John E. EBY et al.

Serial No. 09/287,634

Filed: April 7, 1999

For: SURFACE COVERINGS HAVING
A NATURAL APPEARANCE AND
METHODS TO MAKE A SURFACE
COVERING HAVING A NATURAL
APPEARANCE



Group Art Unit: 1732

Examiner: A. Kuhns

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JUN 24 1999

GROUP 1700

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Statement Accompanying
Petition to Make Application Special under 37 C.F.R. § 1.102(d)

Pursuant to 37 C.F.R. § 1.102(d), Applicants and the undersigned verify to the best of their knowledge and belief, and to the extent possible, that there is a method in actual use in the United States that infringes at least one pending claim of the above-referenced application. Applicants obtained a sample of a multiple layer surface covering made in the United States by a third party, and made a visual and microscopic analysis thereof.

In the opinion of the Applicants and the undersigned, the analysis revealed that the process used to make the third party multi-layered surface covering involves at least one chemical embossing step and at least one mechanical embossing step. More specifically, the analysis revealed that the surface covering has a texture in certain

raised areas of the covering with little or no texture in the depressed areas. These characteristics are consistent with a manufacturing method in which the untextured, depressed areas are made by chemical embossing and the raised, textured areas result from mechanical embossing. In view of this, it is Applicants' opinion that the third party multiple layer surface covering could only have been made by chemically embossing one of the layers and mechanically embossing a surface texture on another of the layers that is disposed on top of the chemically embossed layer. Assuming that this is correct, a rigorous comparison of at least one of the pending claims of this application (e.g., claim 1) and the third party method demonstrates that at least one claim, in the opinion of the Applicants and undersigned, is unquestionably infringed.

Applicants have a good knowledge of the pertinent prior art and have made, prior to the filing of the above-referenced application, a careful and thorough search of the prior art. The documents identified by this search and deemed most relevant to the presently claimed invention have been cited to the Office in an Information Disclosure Statement already of record.

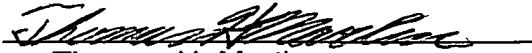
Applicants do not acquiesce that each or any of the listed documents in the Information Disclosure Statement constitute "prior art," and Applicants reserve the right to present to the Patent Office the relevant facts and law regarding the appropriate status of such documents.

Serial No.: 09/287,631
Attorney Docket No.: 3063.0396-02

Please grant any extensions of time required to enter this Statement and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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Thomas H. Martin
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